

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LADDY CURTIS VALENTINE, et al.,

*Plaintiffs,*

v.

BRIAN COLLIER, et al.

*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 4:20-CV-01115

**DECLARATION OF OSCAR MENDOZA**

Pursuant to 28 U.S.C. § 1746, I, Oscar Mendoza, declare as follows:

1. “My name is Oscar Mendoza. I am over 18 years of age, of sound mind, have never been convicted of a felony or crime of moral turpitude, and can make this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.

2. I am the Deputy Executive Director of the Texas Department of Criminal Justice (“TDCJ”). I have held this position since August 2016. I began my employment with the TDCJ in 1979 as a correctional officer. I have held uniformed correctional positions of Sergeant, Lieutenant, Captain, and Major. Additionally, I have served as an assistant warden of two prisons and warden of six prisons. I served as a regional director within the Correctional Institutions Division (CID), where I was responsible for the administrative, operational, and management oversight of 11 prisons and eight wardens. I also served as deputy director for Management Operations with the CID of TDCJ, the division with direct responsibility to manage and operate TDCJ’s various prison units to include the Pack Unit. Further executive level promotions include serving as Division Director for Administrative Review & Risk Management and Division Director for the Private Facility Contract Monitoring/Oversight Division. In my role as Deputy Executive Director, I help to oversee the daily operations and oversight of the TDCJ, including the CID, and I report directly to

TDCJ's Executive Director. In my role as Deputy Executive Director and in prior leadership roles I have also been involved in and continue to be involved in regular interaction with correctional agency managers from other states, including through the American Correctional Association, Texas Corrections Association, CoreCivic, and Management & Training Corporation.

3. Since the onset of the detection and spread of the COVID-19 virus in Texas in March 2020, I have been involved with others in TDCJ agency leadership in helping to formulate and direct TDCJ's preparation and response to the impact of the virus on, among others, the offender population within the facilities operated within the CID. That involvement has included input into TDCJ's operational responses to the COVID-19 outbreak in Texas, both in terms of the formulation and implementation of TDCJ policies and protocols generally and specific involvement in working with CID staff including unit wardens with respect to that response. My involvement in that response process has continued to today.

4. In response to the detection and spread of the COVID-19 virus in Texas, TDCJ implemented operational changes that were set out in a new coronavirus policy, B-14.52, Coronavirus Disease 2019 (COVID-19) developed by the Correctional Managed Health Care Committee ("CMHC") as part of the CMHC's Infection Control Manual. The CMHC and its medical professionals develop the Infection Control Manual for use by TDCJ in its operations. The new CMHC policy was numbered B-14.52 and was issued by the CMHC effective March 20, 2020. Upon the issuance of policy B-14.52 by CMHC, TDCJ directed its unit personnel to put in place the operational requirements (including requirements for enhanced cleaning and sanitation protocols, signage, education, screening, use of personal protective equipment ("PPE"), and medical isolation or restriction for confirmed or potential exposures) set out in the policy for the units under their direct supervision, including the Pack Unit.

5. Following the issuance of policy B-14.52 by the CMHC, the Center for Disease Control (“CDC”) issued guidance specifically directed to correctional institutions. The CDC guidance is dated March 23, 2020. A true and correct copy of that publicly available guidance reviewed by TDCJ management, including myself, is attached to this declaration as **Attachment 1**.

6. Following CDC’s issuance of this guidance to correctional institutions regarding response to the COVID-19 outbreak, the CMHC updated policy B-14.52 in a revised policy issued effective March 27, 2020. Upon the issuance of the updated policy B-14.52 by CMHC, TDCJ directed its unit personnel to put in place the operational requirements set out in the policy (including requirements for enhanced cleaning and sanitation protocols, signage, education, screening, use of PPE, and medical isolation or restriction for confirmed or potential exposures) for the units under their direct supervision, including the Pack Unit.

7. CMHC has made an additional update to policy B-14.52, issued effective April 2, 2020. Upon the issuance of the updated policy B-14.52 by CMHC, TDCJ again directed its unit personnel to put in place the operational requirements set out in the policy (including requirements for enhanced cleaning and sanitation protocols, signage, education, screening, use of PPE, and medical isolation and restriction for confirmed or potential exposures) for the units under their direct supervision, including the Pack Unit.

8. CMHC has updated policy B-14.52 effective April 15, 2020. TDCJ will again direct its unit personnel to put in place the operational requirements set out in this most recent version of the policy.

9. In addition to directing CID unit personnel to implement the operational changes set out in policy B-14.52 in response to the COVID-19 outbreak in Texas, TDCJ also took the following precautionary steps with respect to the operation of TDCJ units, even prior to the time CMHC

issued the initial version of policy B-14.52 and prior to the time that there was any indication of COVID-19 directly affecting TDCJ facilities or its employees:

- On or about, March 13, 2020, TDCJ management began maintaining regular communication with the CDC, the Texas Division of Emergency Management, the Texas Department of State Health Services, TDCJ's Health Services Division (which maintains contact with the Office of Professional Standards), and its university healthcare providers to monitor developments associated with the spread of COVID-19. The university health care providers (UTMB and Texas Tech), administrative medical staff (regional and at unit level) and TDCJ Health Services Director also held daily conference calls.
- Effective March 16, 2020, TDCJ activated the Command Center located at the TDCJ Administrative Headquarters Building, 861-A IH 45-N, Huntsville. The location is staffed by various agency leaders Monday – Friday, 7:00 a.m. – 6:00 p.m. and Saturday and Sunday, 10:00 a.m. – 4:00 p.m. TDCJ conducts a daily briefing conference call with agency leadership. After the conference call, the TDCJ website is updated.
- TDCJ began providing COVID-19 specific updates on its website on March 11, 2020. The website can be accessed at [www.tdcj.texas.gov](http://www.tdcj.texas.gov). TDCJ also implemented an Ombudsman Family Hotline for offender families and the public.
- Effective March 20, 2020, pursuant to the Governor's Executive Order, all offender medical copays have been waived and continue to be waived as of this date.
- With respect to travel, TDCJ management asked staff to limit any unnecessary domestic traveling; limited agency travel to travel that was a necessity; limited international travel; and instituted telework on a case-by-case basis.

- With respect to employees and illness, TDCJ management advised employees who felt ill or who were running a fever to stay at home; began implementing COVID-19 screenings for employees who felt ill at work and who worked in parts of the state in which the presence of the coronavirus had been confirmed; and required a physician's note stating that an employee who appeared to be ill was clear of any symptoms of COVID-19 as a condition of returning to work.
- Effective March 24, 2020, TDCJ minimized transfers between units based upon agency needs on a case by case basis. Currently, for all units on precautionary lockdown, there are no transfers in and out of the units, except for necessary medical needs or emergencies. If a unit is not on precautionary lockdown, agency needed transfers have been authorized for offenders that were releasing (to be near home), for medical appointments, or necessary transfers due to classification. For transfers based upon agency needs, TDCJ implemented screening processes on every facility before the offender departed and upon arrival to the new unit which included temperature screening and interviews by staff regarding fever and other symptoms such as shortness of breath. The screening is conducted before the offender enters a vehicle and when they exit the vehicle upon arrival at the unit to which they transferred. During offender transportation, offenders are seated in every other seat if in a bus. In other instances, only one offender is transported in a van instead of two offenders per van as was done prior to the implementation of COVID-19 protocols. Buses and vans are disinfected before and after each use.
- TDCJ has manufactured COVID-19 related signs, an offender pamphlet, and an offender pocket card. The informational pamphlet and pocket cards are distributed to offenders at the unit. In general, units post the signs in high traffic areas and other locations as determined by unit warden.

- With respect to visitation, TDCJ management first instituted screening procedures for offender visitation (as early as March 11, 2020) and later (effective March 13, 2020) suspended all offender visitation in accordance with a declaration from the Governor of Texas; and eliminated all other visitors to units to include volunteer assemblies, routine audits, vendors, outside contractors, tours, and training sessions.
- TDCJ inventoried existing stock of personal protective equipment (“PPE”) and began to acquire additional PPE for TDCJ units.
- TDCJ increased distribution of hand sanitizer for use by TDCJ employees at all TDCJ units and departments.
- TDCJ began manufacturing cloth masks, face shields, and plastic gowns as supplemental PPE at TDCJ factories equipped to manufacture such for use by TDCJ offenders and staff. To date, TDCJ has distributed 527 two-liter bottles, 577 one gallon jugs, and 173-pint bottles of hand sanitizer, 356,000 bars of soap; 276,988 cloth face masks; 47,121 face shields, and 92,682 plastic gowns in its facilities in response to the COVID-19 outbreak.
- TDCJ produces hand soap which is issued to offenders in all facilities. Staff and offenders are encouraged to follow CDC guidelines on frequent handwashing. Each unit has been provided adequate supplies of hand soap for use by offenders and staff.
- As a general practice, TDCJ already had in place cleaning guidelines for its facilities and maintains a high standard of cleanliness. As part of its implementation measures for COVID-19, TDCJ ordered enhanced cleaning and disinfection of its facilities. TDCJ facilities are following the COVID-19 policy to disinfect surfaces with bleach solution sprayed on and allowed to air dry for 10 minutes. The bleach solution is a mixture of powdered bleach manufactured by TDCJ that is mixed with water. TDCJ also

manufactures and distributes “DD” cleaner which is equivalent to Pine Sol and “Bippy” which is equivalent to Comet. In addition, facilities have an adequate supply of laundry bleach which also is used in mixtures for disinfecting and as a multipurpose type product. Heightened disinfection of areas with a positive COVID-19 test also is required in each facility.

- In accordance with CDC guidelines, based on unit configuration, TDCJ has initiated social distancing measures as much as operationally possible in a correctional environment. As stated in CDC guidelines, not all strategies will be feasible in all facilities.

10. In addition to taking the above steps and directing CID unit personnel to implement the operational changes set out in policy Section B-14.52 to response to the COVID-19 outbreak in Texas, TDCJ has taken additional steps to address the onset of coronavirus cases affecting TDCJ offenders and staff, including the following:

- TDCJ distributed PPE and hand sanitizer to various units, including the Pack Unit.
- Effective April 8, 2020, TDCJ management directed that any TDCJ unit in which an offender resides or TDCJ employee works that experiences a positive COVID-19 test will be placed on precautionary medical lockdown. This precautionary lockdown limits the movement of offenders within the unit and facilitates observation measures to appropriately monitor suspected spreading of the virus and allows facility management to respond accordingly. Units remain on lockdown for the later of 14 days as of the time of lockdown or a period of 14 days after any additional positive cases are detected. During this time, only unit assigned correctional staff and employees are permitted access on the unit.
- Effective April 13, 2020, TDCJ halted all offender intake from county jails.



11. TDCJ placed the Pack Unit on precautionary medical lockdown on April 14, 2020, following the receipt by TDCJ on April 13, 2020 at approximately 5:30 p.m. of a positive test result obtained during an autopsy performed on an offender who had been taken from the Pack Unit to a local hospital, where he expired. Upon request from TDCJ, health officials from the University of Texas Medical Branch (“UTMB”)—a health care provider under contract with TDCJ—already has administered COVID-19 tests to the offenders who resided in the same dormitory as the offender whose autopsy resulted in the positive test.

12. As soap and water are available on TDCJ units, hand sanitizer is not distributed to the offender population due to security concerns. In accordance with CMHC 14.52, units are encouraging handwashing with soap and water for at least 20 seconds (suggested by CDC guidelines as well.) There is no mandate or requirement by CDC or TDCJ policy to provide the offender population access to hand sanitizer. CDC guidelines clearly outlines “if soap and water are not available,” which is not an issue for TDCJ as unlimited soap and adequate water is available for proper handwashing.

13. It is my further understanding that a position is being advanced in the litigation, among others, that all offenders at Pack Unit be tested for COVID-19. COVID-19 tests are determined by TDCJ-Pack Unit’s medical provider, UTMB, not by TDCJ.

14. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 15, 2020.”

  
Oscar Mendoza